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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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THOMAS SANDOVAL, et al.,  
Plaintiffs,  
v.  
COUNTY OF SANTA CLARA, et al.,  
Defendants.

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Case No. [5:18-cv-05464-EJD](#)

**ORDER DENYING WITHOUT  
PREJUDICE MOTION FOR  
APPOINTMENT OF GUARDIAN AD  
LITEM FOR MINOR K.S.**

Re: Dkt. No. 15

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Plaintiff Thomas Sandoval (“Sandoval”), individually and as a father on behalf of his minor child K.S., initiated this civil rights suit under 42 U.S.C. § 1983 against Santa Clara County, two law enforcement officers and K.S.’s mother. On September 24, 2018, Magistrate Judge Cousins issued an order denying without prejudice Sandoval’s motion to be appointed guardian ad litem for K.S. Judge Cousins perceived a potential conflict between the interests of Sandoval and K.S. because “Sandoval is suing the mother of K.S., Amber Saldana (“Saldana”), in a suit arising from a custody dispute over K.S.” Dkt. 11, p. 2. Accordingly, Judge Cousins denied Sandoval’s motion without prejudice to a renewed motion that either proposed a different guardian ad litem or explained how Sandoval and K.S. do not have divergent interests. In response, Sandoval filed an amended complaint that no longer includes any claims by K.S. against her mother (Dkt. No. 13) and renewed his motion to be appointed guardian ad litem for K.S. (Dkt. No. 15).

Upon reassignment of the case, the undersigned Judge set a briefing schedule and hearing date for Sandoval’s renewed motion. The deadline for defendants to file a response to Sandoval’s motion has passed. Having considered Sandoval’s renewed motion and supporting paper, the

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1 court finds it appropriate to take the motion under submission for decision without oral argument  
2 pursuant to Civil Local Rule 7-1(b).

3 Sandoval asserts that the amended complaint resolves any conflict. The Court disagrees.  
4 Although the amended complaint no longer includes claims by K.S. against her mother, there  
5 remains a potential conflict between K.S. and Sandoval because Sandoval continues to assert  
6 claims against Saldana. Therefore, Sandoval's motion to be appointed is again DENIED without  
7 prejudice to renew the motion if Sandoval dismisses his claims against Saldana, which Saldana  
8 represents he is prepared to do.

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10 **IT IS SO ORDERED.**

11 Dated: December 11, 2018



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13 EDWARD J. DAVILA  
United States District Judge

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MINOR